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Los Angeles County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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Performance Evaluation of the Los Angeles County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides a performance evaluation of Los Angeles County Agricultural Commissioner's (LA CAC's) pesticide use enforcement (PUE) program for the fiscal year 2007-2008 (FY 07/08). This report covers the second year of the LA CAC's two-year work plan. The assessment evaluates the performance of goals identified in the LA CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Program Standards Compendium. Most workload numbers in this summary are derived from the county's annual totals on their Pesticide Regulatory Activities Monthly Reports (PRAMR) submitted to DPR. Additional structural Branch 1 compliance monitoring activities were also conducted as part of the industry-funded Structural Fumigation Enforcement Program.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

No deficiencies have been identified in the LA CAC's pesticide use program and the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance – Effective

The LA CAC permit issuance procedures and performance were evaluated through observation, records review, and interviews with relevant staff and found to conform to DPR standards and expectations, including the determination of whether feasible alternatives existed or were required. The inspectors that issue permits possess Pesticide Regulations and Investigation and Environmental Monitoring licenses. The LA CAC issued 425 agricultural permits, 148 non-agricultural permits, and 269 operator identification numbers during FY 07/08.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants;

- Signed by authorized persons;
- Issued for time periods allowed by law;
- Permit amendments followed approved procedures

2) **Site Evaluation – Effective**

LA CAC staff reviewed 3,739 Notices of Intent (NOI) during FY 07/08. The LA CAC gives the highest priority in pre-site evaluation inspections and other associated site-monitoring activities to applications involving fumigants, other Category I pesticides, and restricted material applications near sensitive sites. The LA CAC site evaluation procedures were evaluated through observation, records review, and interviews of relevant staff and found to conform to DPR standards and expectations.

The permits:

- Contained the required information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses;
- Identified mitigation measures and included conditions that addressed known hazards.

The LA CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all NOIs in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring:

1) **Inspections – Effective**

In addition to all other types of use monitoring, storage, and various records inspections normally performed by counties and reported on the PRAMR to DPR, the LA CAC program conducts additional structural fumigation (Branch 1) use monitoring, records, and storage inspections as part of their participation in the Structural Fumigation Enforcement Program (SFEP). During FY 07/08 the LA CAC performed a total of 935 inspections under their agricultural enforcement program, 856 structural “complete” inspections (PRAMR combined total of Branch 1, 2, and 3), and an additional 2,536 Branch 1 inspections (some complete and some partial) for their industry funded SFEP activities.

LA CAC inspection procedures were evaluated through DPR oversight inspections and records review and found to conform to DPR standards and expectations. Inspectors that possess Pesticide Regulation and Investigation and Environmental Monitoring licenses perform inspections. Inspections are performed according to the inspection strategy documented in the LA CAC’s enforcement work plan. Inspections are performed according to DPR policies and procedures; inspections reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.

Inspections performed by the LA CAC staff were found to:

- Adequately address label, law, and regulatory requirements;
- Include interviews of employers and employees as appropriate;
- Adequately document violations;
- Include appropriate follow-up inspections and procedures.

2) Investigations – Effective

The LA CAC investigation procedures and performance were evaluated through observation, records review, and interviews of relevant staff and found to conform to DPR standards and expectations. LA CAC staff investigated a total of **160** investigations (this includes DPR WH&S assigned and other complaints) during FY 07/08, which is an increase of approximately **10%** more than the previous year. Eleven (**11**) of these investigations met USEPA priority criteria. LA CAC investigates all complaints and complete the reports in a timely manner. LA CAC refers and notifies DPR and other agencies, as required.

Investigations are thorough and complete and submitted on approved forms and in the approved format. The investigations document violations and LA CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

C) Enforcement Response: – Effective

The LA CAC enforcement response program was evaluated through observation, records review, and interviews of relevant staff and was found to conform to DPR standards and expectations. LA CAC took **36** Agricultural Civil Penalty (ACP) actions, and **77** Structural (SCP) actions in FY 07/08 and a total of **207** compliance actions (Notice of Violation, Warning Letters, etc.). LA CAC exceeded DPR expectations for the timeliness of their compliance and civil penalty actions.

LA CAC's enforcement program was found to:

- Initiate appropriate action when violations are identified;
- Sufficiently support compliance, enforcement, and public protection actions;
- Ensure that due process requirements are met when taking an enforcement or permit action, or when initiating a private applicator certification or registration refusal/revocation.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

LA CAC performs various types of outreach and pesticide safety training throughout the year to handlers and field workers, in the production agriculture industry, pest control businesses. LA CAC's ongoing activities include their presentations at structural and agricultural industry association meetings, annual school district staff training, and their

involvement in the Structural Fumigation Enforcement Program (SFEP) committee. The following are some specific activities accomplished during the second year (FY 07/08) of their work plan.

- LA CAC gave their annual metam sodium stewardship continuing education training for private applicators (growers) in the Antelope Valley.
- LA CAC's structural program conducted 34 undercover Branch 1 "aeration" inspections of fumigation companies and 5 undercover "certification" inspections.
- LA CAC's structural program also completed a countywide Branch I fumigation scale survey project in 07/08. The LA CAC pesticide program staff, with the assistance of their Weights and Measures Bureau, Scales Division staff tested 35 scales for accuracy in relationship to the measurement of the pesticide (sulfuryl fluoride) used in Branch I fumigation. Twenty-five scales were inspected at the Branch 1 company headquarters' locations and ten other scales were "unannounced" inspections while the companies were at fumigation sites in the field. The results showed that even though these scales are not legally required to be sealed by Weights & Measures, 92 % of all the scales tested met those standards.
- Four structural outreach presentations were made to the structural industry during 07/08, with total attendance of over 200 people.
- LA CAC developed and published a new compliance guide for non-production agriculture property operators in February 2008. Copies are distributed during routine headquarters/records inspections. LA CAC estimates by early 2009 a total of 500 copies will have been given to these property operators in their county.
- LA CAC distributed an additional few hundred copies of their "Grower's Guide" (compliance outreach publication) to their production agriculture industry during annual production agriculture headquarters inspections.
- LA CAC participated in California Department of Food and Agriculture (CDFA) eradication project public meetings and performed use monitoring inspections of treatments for Diaprepes Root Weevil (July 2007), LBAM (August 2007), and Asian Gypsy Moth (March 2008).
- LA CAC also contributed their structural deputy's time to the DPR-SPCB structural training planning committee activities in spring 2008 plus 3 structural program inspectors' time onsite for presentations at the southern region session for new CAC inspectors and managers in June 2008.